

**BOARD OF ENVIRONMENTAL REVIEW  
AGENDA ITEM  
EXECUTIVE SUMMARY FOR RULE AMENDMENTS**

**AGENDA # III.B.1.**

**AGENDA ITEM SUMMARY** - The department requests approval of Notice of Proposed Amendments to the public water supply rules to:

1. Adopt new EPA primacy rules and revisions of existing primacy rules regarding the regulation of public water supplies;
2. Amend existing language regarding illegal construction of public water and sewage systems to be consistent with statutory language that was amended by the 1999 Legislature;
3. Adopt Department Circular PWS-5 “Groundwater Under the Direct Influence of Surface Water”;
4. Amend existing rules for disinfection of contaminated groundwater sources to allow the use of disinfectants other than chlorine;
5. Amend existing rules to allow the department to assess administrative penalties for failure to comply with the operator certification requirements in 37-42-101 through 322, MCA.

**LIST OF AFFECTED RULES**) - ARM 17.38.101 through 17.38.302

**AFFECTED PARTIES SUMMARY** – Owners of community and nontransient noncommunity public water systems. Examples of these systems include cities, towns, water and sewer districts, subdivisions, mobile home parks, businesses and schools. Also, owners of public sewage systems will be affected. Examples include primarily cities, towns, water and sewer districts, large subdivisions and Hutterite Colonies.

**SCOPE OF PROPOSED PROCEEDING** - The Department is requesting initiation of rulemaking and appointment of a hearing officer for a public hearing.

**BACKGROUND** – EPA requires that states with primacy for the Safe Drinking Water Act adopt all rules and rule revisions regarding the regulation of public water supplies. Rules proposed for adoption include EPA’s “Arsenic Rule”, the “Radionuclides Rule”, the “Filter Backwash Rule” and revisions to the existing “Lead and Copper Rule” and the existing “Public Notification Rule”. The other revisions are needed to provide consistency and clarity in implementation and enforcement of existing rules with existing statutory requirements.

**HEARING INFORMATION** – No hearings have been held.

**BOARD OPTIONS** - The Board may:

1. Initiate rulemaking, appoint a presiding officer, and schedule a hearing;
2. Determine that the adoption of rules is not appropriate and decline to initiate rulemaking; or
3. Direct the Department to modify the rulemaking and proceed.

**DEQ RECOMMENDATION** - The Department recommends initiation of rulemaking and appointment of a hearing officer for a public hearing.

**ENCLOSURES** - Notice of public hearing on proposed amendment of ARM 17.38.101 through 17.38.302 pertaining to public water and sewage system requirements.